



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

July 22, 1997

Mr. William H. Kuntz, Jr.
Administrator
Texas Real Estate Commission
P.O. Box 12188
Austin, Texas 78711-2188

OR97-1668

Dear Mr. Kuntz:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 30761.

The Texas Real Estate Commission (the "commission") received a request for information filed with the commission under the Texas Residential Service Company Act, V.T.C.S. article 6573b. Specifically, the requestor seeks "copies of the latest quarterly statements (including financial information) filed by any and all licensed service companies as that term is defined in Section 4(a) of [article 6573b, V.T.C.S.], except for the one filed by First American." You claim that the financial portions of the quarterly reports are excepted from disclosure pursuant to sections 552.101, 552.104, and 552.110 of the Government Code.

Pursuant to section 552.305 of the Government Code, we notified the affected companies of the request for information and of their opportunity to claim that the information at issue is excepted from disclosure. Many companies responded and claimed that the information at issue is confidential under V.T.C.S. article 6573b, section 10(b)(4).

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes. Section 10 of article 6573b, V.T.C.S., provides as follows:

(a) Each service company shall annually, on or before the 1st day of April, file a report, verified by at least two principal officers, with the commission covering the preceding calendar year.

(b) Such report shall be on forms prescribed by the commission and shall include:

(1) a financial statement of the service company, including its balance sheet and receipts and disbursements for the preceding year, certified by an independent public accountant;

(2) any material changes in the information submitted pursuant to Section 7;

(3) the number of residential service contracts entered into during the year, the number of holders of contracts as of the end of the year, and the number of contracts terminating during the year; and

(4) such other information relating to the performance and solvency of the service company as is necessary to enable the commission to carry out its duties under this Act and such information shall be, to the extent legally permissible, confidential in nature and solely for the use of the commission.

V.T.C.S. art. 6573b, § 10. You advise us that the information at issue was furnished to the commission pursuant to section 10. We have reviewed the information and agree that it must be withheld under section 552.101 of the Government Code in conjunction with section 10(b)(4) of article 6573b, V.T.C.S.¹

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway
Assistant Attorney General
Open Records Division

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Ref: ID# 30761

Enclosures: Submitted documents

¹Because the information at issue is confidential by law, we need not address the other arguments against disclosure that the commission and affected companies have raised.

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